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To: [RulesCommittee Secretary](#)
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Subject: Suggested Changes to FRCP Rule 11 to Avoid State Court Criminal Acts
Date: Sunday, December 04, 2022 4:08:14 PM

22-CV-R

Dear U.S. Courts Rules Committee:

My former employer, the Indiana Supreme Court, has taken mere words of criticism from several federal lawsuits I filed to vindicate disability rights and imposed nearly 6 years of suspension on 5 law licenses (4 federal via reciprocal discipline with NO HEARING), absolutely ruining my legal career, causing me massive reputational injury, and no federal courts would let me oppose it.

FRCP Rule 11 needs to make perfectly clear that without a Rule 11(c) due process, a case may not be considered "frivolous" and any words of criticism must be deemed *dicta* without more. Rule 11 must absolutely prohibit any other court from using "harsh words" without a Rule 11 sanction as being an ethical violation by the person who filed the lawsuit and pursued it.

This is just common sense, but Indiana took the **lack of any sanction in 4 federal cases** and took this to mean it had a free reign under its own **Rule 3.1 alone** to retaliate against those cases after I made an ADA complaint about the Indiana Supreme Court TO the Indiana Supreme Court.

SUGGESTED LANGUAGE CHANGES IN YELLOW

FRCP Rule 11.

Rule 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions

(a) Signature. Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name—or by a party personally if the party is unrepresented. The paper must state the

signer's address, e-mail address, and telephone number. Unless a rule or statute specifically states otherwise, a pleading need not be verified or accompanied by an affidavit. The court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention.

(b) Representations to the Court. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(5) merely criticizing a pleading or dismissing a lawsuit without more shall not be considered any sort of ethical violation or sanction by the court.

(c) Sanctions.

(1) In General. If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee. **In the absence of**

notice and opportunity to respond, no criticism of a pleading or entire case shall be considered an ethical violation by the person who filed it. Any mere criticism or dismissal with no formal sanction and separate order shall be considered the normal functioning of the court and at most *dicta* with no ethical consequence.

(2) Motion for Sanctions. A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney's fees, incurred for the motion.

(3) On the Court's Initiative. On its own, the court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b). **If such attorney, law firm, or party makes a good faith attempt to explain the conduct, no sanction beyond a public reprimand at a maximum shall be imposed.**

(4) Nature of a Sanction. A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include nonmonetary directives; an order to pay a penalty into court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees and other expenses directly resulting from the violation. **Without a separate sanction order after due process, notice and opportunity to respond, no sanction of any kind may be imposed.**

(5) Limitations on Monetary Sanctions. The court must not impose a monetary sanction:

(A) against a represented party for violating Rule 11(b)(2); or

(B) on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(6) Requirements for an Order. An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction. Without a separate order imposing sanctions, no sanction must be considered to have been imposed. **Mere words of criticism in a dismissal or denial are not a sanction and no punishment may be imposed without a separate order and the due process that goes with it.**

(d) Inapplicability to Discovery. This rule does not apply to disclosures and discovery requests, responses, objections, and motions under Rules 26 through 37.

(e) Containment of Discipline and Prevention of State Court Abuse.

(1) If no discipline is imposed in a federal lawsuit with a separate order and due process, no other federal or state court may impose any discipline based upon what happened in that case. There is no such thing as informal ethical sanctions in a federal court. No ethical violation may be *inferred* from *dicta* in a case and without a formal sanction and separate order under this rule, no ethical violation may be inferred.

(2) If *dicta* occurs in a dismissal or other denial order and no separate sanction order appears in the case, no other court, state or federal, may consider this to be anything more than *dicta*, and no ethical violation may be inferred from such *dicta*. It is critically important for no state court to attempt to impose a sanction on what happens in a federal lawsuit based on the merits without there being any formal federal sanction.

(3) If a state court does impose sanctions based only on the *dicta* in a federal lawsuit in which no formal sanction was issued, this violates federal criminal law, namely 18 U.S.C. §

245(b)(1)(B) because there must be no interference with the right to use the federal courts. This right exists due to the First Amendment and Article III, which guarantees that courts will exist and will accept filings. The right to use the federal courts exists independent of whether the user of a federal court wins or loses. It is inconceivable that in the absence of a formal sanction with a separate order, a user of the federal court loses that First Amendment right simply by losing. It is thus a crime on the part of a state court to attempt to usurp the power of a federal court to control when sanctions are imposed under this rule.

(4) If a state court imposes a suspension on an attorney who was not formally sanctioned with a separate order in a federal court or an attorney who used the court *pro se* without a separate and formal sanction, that state court must be found in contempt and full damages must be immediately awarded to the person injured as a retaliation for exercising the right to use the federal courts, win or lose.

(5) Given the deliberate and purposeful nature of imposing a sanction to go around the power of a federal court to control the parties before it, there can be no statute of limitations on punishing a state that violates the sanctity of a federal court. All consequential damages shall be awarded to the party injured by attorney discipline in such a state court. Further, if a suspension beyond 30 days is imposed, punitive damages shall be awarded to the attorney so unlawfully disciplined at 10x the compensatory damages.

(6) For clarity, even an accusation of "frivolous" in a federal order does not and cannot be considered an ethical violation on the part of the filer without a separate sanction order after due process.

ANDREW U. D. STRAW: ILLEGALLY SUSPENDED

I was suspended by the Indiana Supreme Court for nearly 6 years for what happened in federal lawsuits with no formal sanction by those federal courts. *In re Straw*, 68 N.E.3d 1070 (Ind. 2/14/2017)

After letting a 180 day suspension drag on for nearly 6 years, I have also been denied constitutional property rights compensation on **5 law licenses suspended because of the Indiana Supreme Court.**

Straw v. Indiana, 53C01-2110-PL-2081 (Monroe Cty. Cir. Ct. #1 4/4/2022); *Straw v. Indiana*, 22A-PL-766 (Ind. Ct. App. 2022)

And now I am being denied *IFP* status even when it has been granted over and over again to me at the state and federal level over the past 2 years. *Straw v. Indiana*, 22A-PL-2352 (Ind. Ct. App.). This devious imposition of poverty on me is being used now to prevent me from even being paid for **property taken by the state.**

The **Virginia State Bar** saw right through this and called using a court ADA coordinator to file a complaint in response to my own and attack me for my ADA work and cases, "**having all the grace and charm of a drive-by shooting.**"

VSB 100% exonerated me with no sanction imposed.

<https://www.vsb.org/docs/Straw-062217.pdf>

Straw VSB Edits-1 - Virginia State Bar

1 v i r g i n i a: before the virginia state bar disciplinary board in the matter of vsb docket no.: 17-000-108746 andrew u.d. straw order of dismissal

www.vsb.org

As my suggested rule changes show, the Indiana Supreme Court committed a federal crime several times over, but no prosecutor had the guts to go against a state supreme court (my former employer) that was turning me into a crime victim simply **because I used the federal courts with some criticism the first few times I used them.**

The same principle applies under the ADA, Title V, but I was not allowed the benefit of the ADA in any way.

Rule 11 must exclude state courts from second-guessing federal courts

using their inferior Rule 3.1 rules because federal courts operate at a superior level and status under the Constitution. State courts may not add or subtract from the Constitution or federal laws **or attempt to hurt those who use the federal courts.**

I rely on my assumption that the federal courts will make these changes promptly to protect the integrity of federal courts from state court meddling. My legal career has been ground to a pulp because Indiana has interfered.

Thank you for the opportunity to make these suggestions.

Sincerely,

A handwritten signature in black ink that reads "Andrew U. D. Straw". The signature is written in a cursive style with a long horizontal stroke at the end.

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